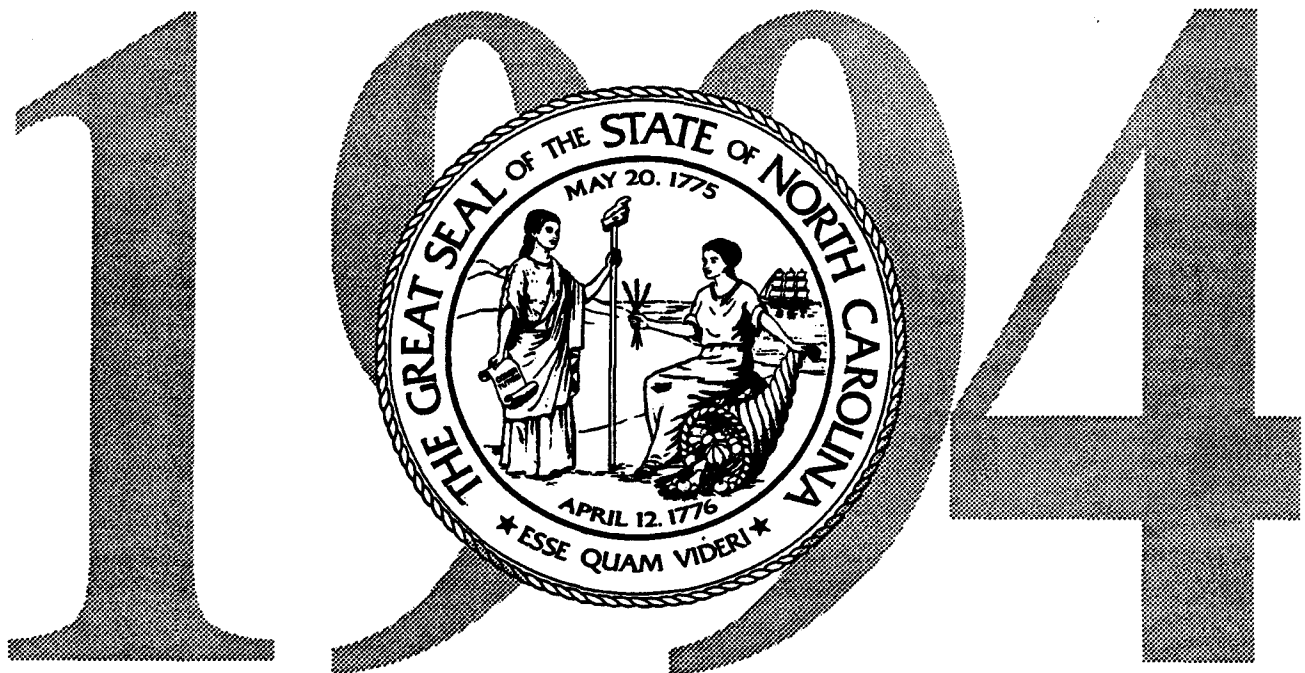


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EMERGING ISSUES, HOT TOPICS AND TRENDS IN LEGISLATIVE ISSUES



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EMERGING ISSUES, HOT TOPICS, AND TRENDS IN
LEGISLATIVE ISSUES

Terrence D. Sullivan, Director of Research
April 15, 1994

We have in recent years briefed incoming legislators on emerging issues, hot topics, and trends in legislative issues which might be presented during the upcoming biennium. In this publication, we will present the major issues that are eligible for consideration and likely to be considered, or likely to be introduced during the 1994 Short Session. I compiled this list by requesting the legislative staff to provide their ideas as to which, in their opinion, are likely to arise. My ideas were then added to the mix, and the whole was edited by Ms. Sara Kamprath. What follows is the product of this process.

I WOULD EMPHASIZE THAT THIS IS NOT MY PUBLIC POLICY WISH LIST NOR THAT OF ANY STAFF MEMBER. OUR MENTIONING OR FAILING TO MENTION ANY ISSUE SHOULD NOT BE VIEWED AS AN ENDORSEMENT OF OR OPPOSITION TO ANY PROPOSAL.

This document is divided into the following sections:

- I. BUDGET**
- II. CIVIL LAW AND PROCEDURE**
- III. CONSTITUTIONS**
- IV. COURTS**
- V. CRIMINAL LAW AND PROCEDURE**
- VI. ECONOMIC DEVELOPMENT**
- VII. EDUCATION**
- VIII. ELECTION LAW**
- IX. EMPLOYMENT**
- X. ENVIRONMENT**
- XI. FAMILY LAW**
- XII. FINANCIAL ISSUES**
- XIII. HUMAN RESOURCES**
- XIV. INSURANCE**
- XV. STATE GOVERNMENT, GENERALLY**
- XVI. TAXATION**
- XVII. TRANSPORTATION**
- XVIII. UTILITIES**

After each main topic, there follows the names and telephone number of the staff people most familiar with the area discussed. If you wish to investigate any of these matters in greater detail, please contact the indicated individuals. Copies of my October 27, 1993 memorandum which, among other matters, lists bills passing one legislative chamber and received and still alive in the other chamber and therefore being

still eligible for consideration during the upcoming session, are available from the Legislative Library or by calling (919) 733-7778. The following bills were passed by both houses but not signed into law and are scheduled for ratification during the upcoming session.

SB 1222	Disabled Sportsman Program
SB 690	Durham City Housing Code
HB 1158	No Billboards Near Pilot Mtn.
SB 785	Sheriffs Commission Members
HB 1319	1993 Omnibus Studies Act

I. BUDGET (Linda Powell and David Crotts -- 733-4910)

A. FISCAL OUTLOOK FOR 1994 SESSION

1. Budget Prospects

Prior to passage of the Crime Package, the General Assembly had \$370 million to spend on salaries and new/expanded programs. The package used up \$170 million, so roughly \$200 million is left. Each 1% pay raise for teachers and state employees costs \$60 million. The total of pay raises for the past three years has been 5% (0% in 1991-92, 2% in 1992-93 and 3% in 1993-94). In addition, in February the House budget chairs passed out a list of almost \$300 million of other needs (Smart Start, Basic Education Plan, etc.).

Therefore, the Governor and House budget leaders are talking about trying to find cuts equal to 2% of the budget (about \$180 million). Final revenue estimates will be made in late April after the April 15 income tax returns have been tabulated.

2. Budget Priorities

Debt Service for 1993
Capital Improvement
Bond Issue

\$22.7 million

1% Salary Increase for State
Employees and Teachers
(including Jordan Adams
funding for locals)

approx. 60.0 million

Teachers Salary Plan

45.0 million

Principals/Assistant
Principals Salary Plan

12.0 million

State Employees Career Development Plan - 1 %	14.0 million
Continued Implementation of Smart Start Program	30.0 million
Child Day Care	26.8 million
Continued Funding of Willie M.	7.3 million
Thomas S. Program	4.0 million
Economic Development Initiatives	30.0 million
Revenue - Continued Implementation of Integrated Tax System	6.2 million
Controller - Continued Implementation of Statewide Accounting System	5.0 million
Controller - Implement the Information Highway system	5.0 million
School Bus Replacement	26.4 million
Community Colleges - Workforce Preparedness Program	25.0 million
Capital Projects:	
Fort Fisher	4.2 million
Falls Lake Reimbursement	9.4 million
Museum of Natural Sciences	33.8 million
Renovate Old Education and Revenue Buildings	21.0 million

BOTTOM LINE IS THAT FUNDS WILL BE VERY LIMITED TO MEET THE REQUESTS FOR FUNDING.

3. Capital Spending Availability

The good news is that for the second year in a row there will be plenty of one-time money for capital projects. The best

guess at this time is that we will have over \$350 million. In addition, in January the Treasurer sold \$400 million of the bonds approved by the voters last November. These proceeds will be used by the university system, community colleges, and state parks. The average interest rate on these bonds, 4.7%, was very favorable and will minimize the State's debt service burden.

B. INTANGIBLES TAX -- see TAXATION -- that heading

II. CIVIL LAW AND PROCEDURE (Walker Reagan and Barbara Riley -- 733-2578).

A. STATUTORY LIEN LAW REWRITE

The General Statutes Commission will make its report requested by the General Assembly on recommendations for rewriting the statutory lien law found in Article 2 of Chapter 44A. The proposed rewrite would modify current law to base priority of claims on first courthouse filing (not first date of work) and would permit equal priority for multi-prime contractors by an owner filing an appropriate "Notice of Commencement". The report proposes creation of a new "protected party" for individual consumers to be allowed to take real property free of all unfilled liens (eliminates relation-back claims under these circumstances). Actions to perfect liens would have to be filed within 180 days of filing of lien (not completion of work). Subcontractors would have a lien on funds to the extent of the amount owed to the party with whom the subcontractor dealt. First, second and third tier subcontractors would be allowed to enforce their lien on funds against real property by enforcing general contractor's lien on real property. The definition of "improvement to property" would be expanded to include equipment rental. Existing attorney fees provision would be made permanent with an added provision requiring privity of contract between the parties in order to have a right to recover attorney fees.

B. ESTATE AMOUNT CHANGES (Robin Johnson -- 733-2578)

House Bill 542 is a recommendation of the General Statutes Commission and would increase the amount of property collectible by a small estate affidavit, increase the minimum amount of intestate personal property passing to the surviving spouse, and increase the amount of the year's allowance for a surviving spouse and children.

III. CONSTITUTIONS (William R. Gilkeson -- 733-2578)

A. STATE CONSTITUTION

1. Alternative Punishments

The Senate in 1993 passed Senate Bill 342 (Senator Albertson), which would add to the list of punishments that may be imposed for crime. Currently, the State Constitution allows only death, imprisonment, fines, and remove/disqualification from office. The amendment would add suspension of active time, restitution, community service, restraints on liberty, and work programs. The reasoning behind the proposal is that currently, if courts want to utilize restitution etc. as a punishment, they may do so only if the defendant voluntarily accepts them as alternatives to prison. Some defendants have refused to accept the alternative, gambling that they will get early release from the overcrowded prisons. The bill is eligible for consideration in the House. (The proposal received another airing in the 1994 Special Crime Session: The Senate passed the bill, but the House did not act on it.)

2. School Governance Changes

The Senate in 1993 passed Senate Bill 28 (Senator Conder), which would change the State Constitution to expand the membership of the State Board of Education and make the Superintendent of Public Instruction (now elected) an appointee of the Board. The bill is eligible for consideration in the House.

B. U.S. CONSTITUTION

Nothing.

IV. COURTS (Jim Mills -- 733-4910; Sean Dail -- 733-6660)

A. COURT/DRUG TREATMENT PROGRAM

In Section 41 of Chapter 24 of the Session Laws of the 1994 Extra Session, the Crime Control and Prevention Act of 1994, \$800,000 was placed in a reserve for a court/drug treatment program. During the 1994 Short Session, the General Assembly will need to determine how to allocate this money and to establish guidelines for the treatment program.

B. MECKLENBURG DRUG COURT

The Mecklenburg Drug Court is currently being funded by grants through the Department of Crime Control and Public Safety. These grants expire at the end of March, 1995. During the 1994 Extra Session, proposed funding of the drug court with General Fund monies was not included in the budget. The funding issue will probably arise during the 1994 Short Session.

C. CERTIFY JUVENILE JUDGES (Robin Johnson -- 733-2578)

House Bill 357 is a recommendation from the Child Fatality Task Force and would "strongly encourage" district court judges to obtain certification in family and juvenile law in order to hear family and juvenile cases.

D. CHILD PROTECTION INITIATIVES (Conference Committee Appointed) (Robin Johnson -- 733-2578)

House Bill 358, one of the recommendations of the Child Fatality Task Force, would (1) require the Administrative Officer of the Courts to encourage district attorneys to develop information about provisions for child-friendly courtrooms, (2) encourage the Department of Justice and the North Carolina Conference of District Attorneys to develop protocols for child abuse and neglect investigations, and (3) encourage the Department of Justice and the Administrative Officer of the Courts to develop job descriptions for law enforcement officers and assistant district attorneys who handle child abuse investigations and child abuse and neglect cases.

E. JOINT TRAINING/CHILD ABUSE (Robin Johnson -- 733-2578)

House Bill 363 is one of the recommendations of the Child Fatality Task Force and would establish a task force to develop joint training on child abuse and neglect investigations and criminal prosecution for law enforcement officials, county departments of social service workers, court officials, and other child-serving professionals.

V. CRIMINAL LAW AND PROCEDURE (Jim Mills and Lynn Muchmore -- 733-4910; Sean Dail -- 733-6660)

A. CRIMINAL JUSTICE INFORMATION NETWORK

In Section 13 of Chapter 24 of the Session Laws of the 1994 Extra Session, \$100,000 was appropriated to study the development of the

Criminal Justice Information Network. \$930,000 was put in a reserve to be allocated as prescribed during the 1994 Short Session.

B. NO CHILDREN IN PICKUP BEDS (Robin Johnson -- 733-2578)

House Bill 27 would prohibit the transportation of a child under 12 in the open bed or cargo area of a pickup truck, unless (i) an adult is present in the area and supervising the child, (ii) the child is wearing a seat belt, (iii) an emergency exists, or (iv) the vehicle is being operated in a parade with a valid permit.

C. BICYCLE CLINGING PROHIBITED (Robin Johnson -- 733-2578)

Senate Bill 901 would prohibit a person riding on a bicycle, roller skates, in-line skates, skateboard, or sled from being attached to any motor vehicle while on a roadway. The bill would not prohibit attaching a bicycle trailer or bicycle semitrailer to a bicycle, if that bicycle was designed for this type of attachment.

VI. ECONOMIC DEVELOPMENT (Walker Reagan and Cindy Avrette -- 733-2578)

A. PARTNERSHIP FOR REGIONAL ECONOMIC DEVELOPMENT

As part of its Comprehensive Strategic Economic Development Plan, the Economic Development Board has recommended the creation of the North Carolina Partnership for Regional Economic Development to be created from a series of public-private partnerships, formed on a voluntary basis, to work cooperatively with the Department of Commerce to stimulate jobs and investments in all regions of the State. The proposal calls for counties to voluntarily associate themselves in regional partnerships to plan and market economic development within the region in cooperation with the State, private non-profit economic development organizations, chambers of commerce and private industry. The State would provide funding through a voucher system, based on level of distress, to be used by the regional partnership for marketing, advertising and promotional activities. Up to 25% of the funding could be used for staffing purposes in certain situations. The three existing regional legislative economic development commissions, Western North Carolina Regional Economic Development Commission, Northeastern North Carolina Regional Economic Development Commission and Southeastern North Carolina Regional Economic Development Commission, created in 1993 would continue with their existing funding until 1995 at which time these counties would become part

of the statewide program. These counties could retain the existing regional configuration or change to new partnerships if they choose.

B. TAX INITIATIVES FOR ECONOMIC DEVELOPMENT -- See TAXATION -- that heading

VII. EDUCATION

A. PUBLIC SCHOOLS (Jim Watts, Mary Thompson and Robin Johnson -- 733-2578; Jim Johnson -- 733-4910)

1. Expansion of the Basic Education Program (BEP)

The legislature provided \$18.2 million for at-risk pupil support positions to local school units in the 1994 Extra Session. The BEP has provided over 7,500 teaching positions since its inception. The program has helped reduced class size, offered additional program opportunities and course offerings, provided clerical support positions, and additional supplies and materials for local schools.

Expansion of the BEP will continue to be a central theme of education reform debate in North Carolina. Recent recommendations from interest groups and the State Board of Education focus expansion of BEP funding towards reducing class size at the K-3 level and fully funding pupil support positions (counselors, psychologists, social workers and school nurses).

2. Educational Technologies

The Commission on School Technologies, initiated by the legislature in the 1993 Session, is scheduled to bring recommendations to the 1994 Session. The recommendations will include what resources will be dedicated to local school units to expand educational technologies. The focus of the study is to determine what "basic level" of learning and instructional management technology should be available to local schools. The Commission is also investigating issues related to expansion of technologies including professional development, infrastructure costs, equipment maintenance costs and other related issues.

Both the Department of Public Instruction and the Public School Forum have conducted recent studies that call for substantive resources to be dedicated to enhancing local school educational technologies.

3. Fiscal Equity Issues/Low Wealth and Small School Unit Supplemental Funding

\$10 million was added to Low Wealth supplemental funding in the 1994 Extra Session. There will be continued pressure from low wealth counties to address equity concerns through continued expansion of Low Wealth supplemental funding. The State role in contributing resources to capital needs in low wealth school units should continue to be a topic of discussion. Those school units burdened with deteriorating facilities and limited fiscal capacity to renovate or replace will continue to press for a greater State role in meeting local capital needs.

4. Pay Issues

School employee pay issues will be of critical importance in the 1994 Session. Teacher organizations and other school groups will be pushing for an increase to the teacher salary schedule. Principals will be asking for a "phase-in" of the Principal salary schedule, and other school personnel are expecting across the board increases.

1993 legislation includes non-certified personnel in Differentiated Pay. Since no appropriations were added in 1993 for these additional personnel, this may be considered in 1994.

5. Professional Development and Standards

Continuing discussion regarding quality professional development for school employees will occur in the 1994 Session. Proposals for appropriations for the expansion of the Teacher Academy and the construction of a facility to house the School Leadership Academy will be considered.

Legislation (SB 883) creating the North Carolina Teaching Standards Board, which would be located administratively under the Department of Public Instruction, but exercise powers and duties independently of the State Board of Education and Department of Public Instruction, has passed the Senate and has been referred to the House Rules Committee.

The State Board of Education has discussed the possibility of incorporating elements of the National Professional Standards Board Certification into the State teacher certification process. Some limited state participation in this program should become a topic of discussion.

6. Governance (SB 28)

The third edition of the bill received by the House from the Senate would have changed the appointed membership of the State Board of Education from eleven members appointed by the Governor to nine members appointed by the Governor and eight members appointed by the General Assembly, eliminated the Superintendent as an elected official, and, instead, would have made the Superintendent an appointee of the State Board. Terms of State Board members would be reduced from eight years to four years.

A proposed House Committee substitute, would make the State Board of Education an advisory board and vest in the Superintendent of Public Instruction the power and duty to administer the public school system. The Committee substitute provides that members of the State Board be appointed from each of the congressional districts for terms of four years.

7. Criminal Record Checks for School Employees

Recent news reports of school employees with criminal records has resulted in responses from both the Superintendent of Public Instruction and the State Board of Education. Requests for legislation requiring criminal record checks is likely to be considered.

8. School Expulsion Modified (SB 88)

Senate Bill 88, a controversial piece of legislation that was postponed in the House, is one of the recommendations of the Governor's Task Force on School Violence and may, given the recent emphasis on crime, reappear in the Short Session. Current law only allows expulsion for "students fourteen years of age or older who have been convicted of a felony and whose continued presence constitutes a clear threat to the safety and health of other students or employees." This bill would remove the felony requirement and would allow expulsion of a student, at least 14, when that student's intentional acts are a clear threat to the safety of others at the school, and when certain due process protections are provided.

9. Warrantless Arrest/School Grounds

House Bill 448 would amend G.S. 15A-401 to allow the warrantless arrest of any person the officer has probable cause to believe has committed a misdemeanor creating a risk of violence on school grounds or on a school bus.

B. HIGHER EDUCATION (Robin Johnson -- 733-2578; Jim Newlin -- 733-4910)

UNC Management Flexibility & Accountability

The 1991 General Assembly enacted the Fiscal Accountability and Flexibility Act, which became effective July 13, 1991, and expires on June 30, 1994. This legislation authorized the Board of Governors of The University of North Carolina to specify certain institutions of The University as "special responsibility constituent institutions." These institutions are to be given greater discretionary authority over certain aspects of budgeting, purchasing, and personnel. At this time all of the constituent institutions have been so designated. The Board of Governors has reported quarterly to the Joint Legislative Education Oversight Committee on its decisions and implementation of this legislation. Its final report included the following recommendations: make this legislation a permanent part of the General Statutes; establish a uniform reversion rate of 2% for all operating budget codes under budget flexibility, other than for the Area Health Education Centers Program at UNC-CH, which should be 1%, and consider eliminating the required reversion rate; extend budget flexibility to receipts realized in excess of budgeted levels at the designated institutions, up to a maximum of 10% above budgeted levels; increase the present on-campus purchasing benchmark from \$25,000 to \$50,000 on all purchases; modify reporting requirements and consolidate them with other established reporting schedules where applicable; and make the NC School of Science and Mathematics eligible to participate in the benefits under the budget flexibility legislation. It is anticipated that the Joint Legislative Education Oversight Committee will recommend several of these to the 1994 Short Session.

VIII. ELECTION LAW (William R. Gilkeson -- 733-2578)

A. VOTER REGISTRATION REFORM

1. Compliance With National Act

By January 1, 1995, North Carolina and all other states must be in compliance with the National Voter Registration Act. That act says states must allow voter registration by mail and in drivers license offices and certain other public offices, and must follow certain procedures in keeping voter registration lists up to date. The LRC Election Laws Review Study Committee is considering a revision of the entire Voter Registration Article of Chapter 163 of the General Statutes. The draft would bring North Carolina into compliance with the

National act and would make certain choices the State has in the matter, such as:

- * Which public agencies should be designated for voter registration;
- * When the pre-election deadline for registration should be set;
- * Whether the state should still ask voter-registration applicants their race and gender.

2. Computerization

There has long been sentiment in the General Assembly to establish a statewide computerized voter registration system such as exists in Minnesota, Kentucky, and (less thoroughly) in South Carolina. The new Executive Secretary-Director of Elections, Gary Bartlett, is actively seeking such a system as part of his agency's budget request and through the Election Laws Review study. He is saying he needs the system to adequately administer the federally mandated voter registration reforms. House Bill 445 (Rep. Michaux), now in the House Appropriations Committee, would establish a statewide computerized registration system and appropriate money for it, but only after a separate design study had been done.

3. Teenagers' Preregistration

The Senate and House both passed bills in 1993 that would pre-register 16- and 17-year-olds when they receive their drivers licenses. Pre-registration, however, was merged with a proposal for "early voting" (see below), and both were contained in Senate Bill 1066, pending before a conference committee when the General Assembly adjourned in July 1993. Senator Gunter introduced SB 1066, which originally contained only the pre-registration proposal.

B. VOTING REFORM

1. "Early Voting"

The 1993 General Assembly adjourned with a conference committee still considering Senate Bill 1066, which would institute a system of "early voting" similar to that pioneered by Texas. Under the concept, in-person voting is available for several days before election day. A person could vote early without giving any excuse about not being able to go to the polls on election day and, in large counties, could vote at a choice of sites around the county. Although Senator Gunter introduced SB 1066 (originally a bill for pre-registration of

teenagers), the principal House proponent of Early Voting was Rep. Holt.

2. **Faxing Military/Overseas Ballots**
The Senate in 1993 passed Senate Bill 921 (Senator Gunter), which would allow military and overseas voters to vote by fax machine. The bill is eligible for consideration in the House.
3. **Later Primary**
The Senate in 1993 passed Senate Bill 78 (Sen. D. Winner), which would move the primary date from the first Tuesday in May (current) to the ninth Tuesday before the general election. The new primary date would usually fall in early September. The bill is eligible for consideration in the House.
4. **Unopposed Candidates Not on Ballot**
The House in 1993 passed House Bill 453 (Rep. Hightower), which would remove from the general election ballot all unopposed candidates, unless they are running for constitutional offices. The bill is eligible for consideration in the Senate.

C. CAMPAIGN REGULATION

The Election Laws Review study is considering two changes in campaign finance regulation:

1. **Occupational Disclosure**
Requiring that reports of contributions over a certain amount must include the occupation, employer, and/or business address of the contributor. This change might also include an increase in the threshold of the amount of contributions that must be reported by name. (Now only contributions of over \$100 must be reported by name.)
2. **Post-Primary Report**
Adding a post-primary report for winning candidates to the election-year schedule. Currently, only candidates who lost the primary must make post-primary reports; primary winners don't have another report due until 10 days before the general election.

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IX. EMPLOYMENT

A. WORKERS COMPENSATION (Linwood Jones -- 733-2578)

Senate Bill 906, the workers' compensation reform bill, passed the Senate last session and is eligible for consideration during the 1994 Short Session. The bill was put together by a coalition of groups in response to the rising costs of the workers' compensation system in an attempt to hold down workers' compensation insurance premiums. Among the issues addressed are health care provider fees, attorneys' fees, fraud, the use of managed care, Woodson lawsuits, the assigned risk insurance pool, the reopening of claims, direct payment of compensation, offsets and related matters.

B. FAMILY AND MEDICAL LEAVE ACT (William R. Gilkeson -- 733-2578)

House Bill 53 (Rep. Kennedy), which would create a North Carolina version of the U.S. Family and Medical Leave Act of 1993, is in the House Appropriations Committee. The provisions of the bill would be enforced by the State Department of Labor.

C. EMPLOYMENT SECURITY (William R. Gilkeson -- 733-2578)

Increasing unemployment benefits

During the 1994 Special Crime Session, the General Assembly enacted significant cuts in the tax that employers must pay to provide unemployment compensation to laid-off workers (SB 151; Chapter 10). The rationale was that North Carolina's Trust Fund in Washington, to which the taxes go and from which unemployment benefits are paid, has more money than needed. In the recession of the early 1980s, that Fund was dangerously low. The 1983 General Assembly met the crisis by raising the tax and cutting benefits. During the debate on the tax cuts in SB 151 this year, Rep. Luebke proposed also increasing unemployment benefits to their pre-1983 levels. His argument was that employers should not be the only ones to benefit from the current flush condition of the Trust Fund, since both employers and employees had been called on to sacrifice during the lean times. The proposal to increase benefits may be promoted again in the Short Session.

X. ENVIRONMENT

A. AIR QUALITY (George Givens and Sherri Evans-Stanton -- 733-2578)

During the 1994 Short Session, the General Assembly needs to consider how to change the vehicle emission inspection program to comply with the federal Clean Air Act. This involves denying vehicle registration for failure to have a timely emission inspection, imposing penalties against vehicle owners and inspection stations, and beefing up the enforcement program.

B. WASTE MANAGEMENT (George Givens and Steve Rose -- 733-2578)

Low-Level Radioactive Waste

The State has narrowed its choice for the site of a low-level radioactive waste disposal facility to a location in the southwestern part of Wake County, bordering on the Chatham County line. The Joint Select Committee on Low-Level Radioactive Waste has been looking at the issue of community benefit for the host community. A number of issues have been raised in this review. A very significant issue is the question of what comprises the "host community." The Joint Select Committee has heard presentations from Wake County, Chatham County, Harnett County, and Lee County, as well as from individual local governments within those counties, each requesting community benefits. The statutes would have to be changed in order for any communities outside of Wake County to receive benefits. Also, the primary benefits provided by statute is a 2.5% tax on the gross receipts of the facility. Recommendations have been made to raise that tax. In addition, the various communities have requested other compensation ranging from emergency response equipment and training to significant highway improvements.

C. COASTAL ISSUES (Sherri Evans-Stanton -- 733-2578)

1. Shellfish and Crab License

During the 1993 Legislative Session, the General Assembly renamed the "Oyster, Scallop and Clam" license and added crabs, thus creating the "Shellfish and Crab" license. The license contained a six month residency requirement. Virginia crab fishermen sued the Dept. of Environment, Health, and Natural Resources in Wake County Superior Court on March 15, 1994 contending that the crab license residency requirement is unconstitutional. A Consent Order was entered into by the parties to allow non-resident Virginia fishermen to obtain a crab license. The Consent Order remains into effect

until "the prohibition against sale to non-residents of a license to fish for crabs in North Carolina coastal waters is repealed or is amended in a manner consistent with Article IV, Section 2, Clause 1 of the United States Constitution." The Joint Legislative Commission on Seafood and Aquaculture plans to recommend legislation that separates the Crab License from the Shellfish License and removes the residency requirement from the Crab License.

2. Moratorium on certain marine fisheries licenses

The Marine Fisheries Commission recently passed two resolutions requesting that the General Assembly enact legislation to place a two-year moratorium on the new issuance of certain licenses. The freeze would affect the following: vessel licenses (G.S. 113-152 and G.S. 113-153); Shellfish and Crab License (G.S. 113-154); and Endorsement to Sell (G.S. 113-154.1). During the moratorium, an extensive study would be conducted including, measures to control the resource, gathering available information, conducting necessary scientific research, studying measures taken by other states or resource management organizations (including national and international), and obtaining public comments from the fishermen. The resolutions adopted by the Marine Fisheries Commission are being discussed by the Joint Legislative Commission on Seafood and Aquaculture.

3. Endorsement to Sell

The Joint Legislative Commission on Seafood and Aquaculture is studying and reviewing the fee structure for the endorsement to sell (ratified during the 1993 Legislative Session). The Commission may recommend that the fee be converted to an individual license as opposed to an endorsement on the vessel license.

XI. FAMILY LAW

Adoption Laws Rewrite (Walker Reagan -- 733-2578)

Senate Bill 607 - Adoptions Rewrite (Sen. Hartsell) is presently pending in the Senate Judiciary II Committee and may be eligible for consideration during the Short Session because of fees included in the bill. The bill, proposed by the General Statutes Commission, would substantially rewrite the current adoptions law, initially enacted in 1949, to modernize and bring the law up-to-date in light of the current needs and practices across the State, nation and the world in the area of adoptions. The bill is based on the Uniform Adoption Act.

XII. FINANCIAL ISSUES (Walker Reagan and Karen Cochrane Brown -- 733-2578)

Banking Amendments

Senate Bill 513 - **Banking Amendments** (Sen. Harris) is presently pending in conference committee. This bill would make technical and substantive changes to the banking laws, including allowing banks to set their own hours, allowing banks to merge with savings and loan associations and savings banks, simplification of branch closing procedures, and reduction of the publication requirements of bank financial reports. The significant unresolved difference between the House and Senate versions of the bill involves who will have the appointment authority over two new positions proposed to be added to the Banking Commission which would also permit a bank director to serve on the Banking Commission. The banking industry and the Commissioner of Banks are strongly urging passage of the bill, with or without a provision adding additional members to the Banking Commission.

XIII. HUMAN RESOURCES

A. SMART START (Robin Johnson -- 733-2578; Carol Shaw -- 733-4910)

The 1993 General Assembly appropriated \$20,000,000 for 1993-94 and \$27,640,000 for 1994-95 to fund, initially, 12 local demonstration projects in order to expand coverage and improve quality of child day care services, family- and child-centered services, including early childhood education and child development services, and other appropriate activities and services for child day care providers and for family- and child-centered services. It is anticipated that the Governor will request additional funding to further expand this program. In addition, the Joint Legislative Oversight Committee on Early Childhood Education and Development Initiatives, has met several times to hear from DHR, several of the initial local programs, and the North Carolina Partnership for Children, Inc. This Committee may endorse this request and probably will make several recommendations to the 1994 Short Session.

B. CPS SUPPORT SERVICES FUNDS (Robin Johnson -- 733-2578)

House Bill 355 is one of the recommendations of the Child Fatality Task Force and would appropriate funds to the Division of Social Services for support services, including transportation, homemaking services, mental health and substance abuse services, and parenting classes, in connection with the treatment of families receiving child protective services.

C. FAMILY PRESERVATION (Robin Johnson -- 733-2578)

One of the recommendations of the Child Fatality Task Force, House Bill 362 would appropriate funds to make family preservation services for families at imminent risk of having a child removed from the home available in every county by 1994. The funds would be allocated to counties based on the number of child abuse and neglect reports received by each county.

D. CHILD CARE/FOSTER CARE (Robin Johnson -- 733-2578)

1. Day Care Provider Records

House Bill 200 and Senate Bill 336, companion bills, are recommendations of the LRC's Study Committee on Child Day Care Issues. They would mandate criminal record checks of employees, prospective employees, and operators directly providing day care in all child day care centers and homes, including those that are church-sponsored. The bills would also apply to spouses of persons applying or reapplying for work as day care operators after a certain date. The bills would appropriate \$50,000 for each fiscal year for implementation. The General Assembly may consider expanding this legislation to provide for criminal record checks of teachers since there has been recent media attention given to this issue.

2. Child Day Care Market Rate Change

House Bill 201 and Senate Bill 230, companion bills, are one of the recommendations from the LRC's Study Committee on Child Day Care Issues and would direct the Social Services Commission to establish rules for the monthly schedule of payments for the purchase of day care services in licensed facilities and registered plans for low-income children. They would require the rules to establish a statewide market payment rate representing the 75th percentile of all day care rates from every county, along with a provision for county market rates in those counties whose county market rates are higher than the statewide market rate. Currently, each county sets its own market rate, which is established at the 75th percentile of fees paid by all unsubsidized parents in centers and homes in that county. These bills also would require the rules to provide incentives to provide quality day care by establishing payment differentials among similar kinds of care that provide different levels of quality of care. Registered homes and "A" centers would receive the basic rate, which would be the higher of the statewide or the county market rate. Unregistered homes would receive 10% less than the basic rate, and "AA" centers would receive 10% more than the basic rate. The Social

Services Commission would be directed to give consideration to ensuring that the counties now using reallocated funds be helped to continue to provide that high level of care that these funds have made available in the past. The bills would suggest that, in order to further the goal of providing quality day care to all of the State's children in need of care, the payment rate structure, in the near future, should consider providing increased rates for accredited day care and rates for day care providers at cost, if the providers have their budgets approved by their county day care administrator. Finally, they would appropriate \$13,000,000 for each fiscal year of the 1993-95 biennium for implementation.

3. Child Day Care Eligibility Funds

Recommended by the LRC's Study Committee on Child Day Care Issues, House Bill 202/Senate Bill 229 would increase the eligibility limits for State and federal child day care subsidies in two parts. The first part would increase eligibility limits for families already receiving subsidies to 75% of median income. According to MEETING THE CHILD CARE PROMISE: How Counties are Responding to New Child Care Subsidy Programs, a report prepared by the N.C. Child Advocacy Institute that was presented to the Committee on Child Day Care Issues, the current eligibility for subsidized child care is unavailable to families whose income exceeds about 50% of the State median income. The second part would increase the entrance eligibility level for families initially needing subsidies one economic "notch" above the present eligibility limit. A notch is between one thousand and fifteen hundred dollars. The bills would appropriate \$2,000,000 for each year of the 1993-95 biennium for implementation.

4. CPR/Day Care Homes

House Bill 221 is one of the recommendations of the LRC's Study on Child Day Care Issues and would add a new G.S. 110-101.2 to require ALL workers in unregistered day care homes (i.e., those that care for fewer than three children under the age of 13) that receive reimbursement from the State to receive pediatric CPR training every two years. This would include care provided by grandparents, aunts, uncles, step-grandparents, or great-grandparents and religious-sponsored care. The Social Services Commission, in rule making, would be directed to adopt a schedule for implementing the section. The bill, as amended in the House, also requires the Division of Social Services to direct the county department of social services in each county where access to pediatric CPR training is unavailable to provide such training. (The Social Services

Commission adopted a rule, effective February 1, 1993, that mandates workers in unregistered day care homes to complete a multimedia first aid course within three months of choosing to participate in the day care subsidy program. The rule does not apply to unregistered care provided by relatives.)

5. Child Caring License Exempt

House Bill 752 would amend G.S. 131D-10.4 to remove an exemption from Article 1A of Chapter 131D (Control over Child Placing and Child Care). Currently, residential child care facilities, owned or operated by a religious denomination or fraternal order, having a plant and assets of \$60,000 or more and in operation before July 1, 1977, are exempt from the licensing requirements of this Article. A residential child care facility is a staffed premise with paid or volunteer staff where dependent, neglected, abused, abandoned, destitute, orphaned, undisciplined, or delinquent children (or other children who, due to similar problems of behavior or family conditions, live apart from parents, relatives or guardians) receive continuing full-time foster care. This type of facility includes child-caring institutions, group homes, and children's camps that provide foster care. The bill would take effect on January 1, 1995, and apply to licenses required on and after that date.

E. GPAC/CHILD SUPPORT REFORM (Robin Johnson -- 733-2578)

Recommended by the Government Performance Audit Committee, House Bill 272/Senate Bill 314 would restructure the child support system in the State. (Even though they started as identical bills, they currently are different. The original version, in the House, would implement a pilot program in six counties, require magistrates and clerks of court to act as child support hearing officers, and would repeal most criminal nonsupport statutes. The Senate version would establish a phased-in system, starting with six counties by January 1, 1994, and full implementation by July 1, 1996, and does not include the provisions from the original bill that required hearing officers and deleted criminal enforcement options.) Currently, the State has a bifurcated child support system administered by DHR (known as the IV-D program) and by the State courts (known as the non-IV-D program). The IV-D program serves AFDC clients and non-AFDC clients who wish to take advantage of the enforcement services offered by the IV-D program that are otherwise unavailable (such as location of absent parents, paternity establishment, and wage withholding). The federal government reimburses 66% of the costs of the State's IV-D program. The clerks of courts currently monitor and track non-IV-D cases and initiate proceedings. The costs for

these services are not reimbursed by the federal government. By centralizing the enforcement services under both bills, it is anticipated that most parties would choose to take advantage of the IV-D program -- which would then enable the State to draw down 66% of the costs from the federal government. (One estimate from Fiscal Research is that \$1.7 million in additional federal money could result from restructuring the system in the 1st 6 counties alone.) The bills also would create a Child Support Oversight Commission to examine the State's child support enforcement system and with specified oversight duties and would create a nonreverting special fund, the "Child Support Fund," to include specified federal grants and other funds, to be used solely to pay child support implementation and operating expenses of counties as they are selected under the act, the expenses of the Child Support Enforcement Section of DHR, and the expenses of the Commission. The House version would appropriate funds to implement the act, but the Senate version would not.

F. WELFARE REFORM (Robin Johnson -- 733-2578)

In the last several years, a number of states have rewritten their welfare laws or requested and received federal waivers. So far, North Carolina has not done this even though there have been several welfare reform bills introduced in the last few years, including House Bill 1438, 'Responsible Parenting Act/'93', which was introduced in 1993. This bill would amend the law related to Aid to Families with Dependent Children program (AFDC) to provide; (1) that a family who moves to North Carolina and who has not resided here continuously for 12 months may not receive AFDC benefits in excess of the maximum North Carolina AFDC payment for the family or the maximum AFDC payment of the state from which the family moved, whichever is less; (2) with certain exceptions, that a family may not receive increased AFDC benefits based on an increase in the family's size with respect to a dependent child that is born while the family is receiving AFDC benefits or within 24 months of the date that the family last received AFDC benefits; (3) that the Department of Human Resources must ensure that parents and teenaged dependent children (male and female) who receive AFDC benefits also receive counseling regarding parenting responsibilities, birth control options, and prevention of sexually transmitted diseases, and that all appropriate forms of birth control are available at no charge to any parent or teenaged dependent child who receives AFDC benefits; (4) that earnings in the amount of \$200 per month plus 20% of the remaining earned income are disregarded in determining AFDC eligibility and benefits; (5) that earnings of dependent children who attend school at least 80% of the time are disregarded in determining AFDC eligibility and benefits; (6) that families who have received

AFDC in 3 of the last 6 months and who would still be eligible for AFDC benefits except for the family's income will receive Medicaid benefits for an additional 24 months; (7) that families in which the principal wage earner works more than 100 hours per month or has not worked in 6 of the last 13 calendar quarters are eligible for AFDC benefits under the Unemployed Parent program, if they meet all other eligibility criteria; (8) that these new eligibility provisions are effective October 1, 1993, unless funds have not been appropriated to make up for federal funds that might be lost if the provisions were implemented without a necessary federal waiver; (9) a mandate to the Department of Human Resource that it apply to the federal government for any necessary federal waivers; and (10) an appropriation. It is unlikely, however, that this bill will be considered in 1994 since the 1994 Extra Session of the General Assembly established the Legislative Study Commission on Welfare Reform to study the issue of welfare reform by evaluating the purpose of the welfare system, federal reform proposals, and other reform initiatives. The Commission has not been convened yet, so there probably will not be a report to the General Assembly until 1995.

XIV. INSURANCE

A. MANAGED CARE ORGANIZATIONS (Linwood Jones -- 733-2578)

Senate Bill 623 provides for the regulation of all managed care organizations and is eligible for consideration in the House during the 1994 Short Session. The bill strengthens existing regulatory requirements for HMOs and adds regulatory requirements for preferred provider organizations ("PPOs") and exclusive panel providers ("EPPs"). These requirements are designed to ensure that HMOs, PPOs, and EPPs are operated on a financially sound basis, are accessible to and have sufficient resources to provide for their patients, and conduct their operations in a manner consistent with the best interests of their patient-subscribers. The bill would also set the maximum "penalties" that can be assessed patients who obtain non-emergency treatment from a provider outside of the HMO, PPO or EPP plan.

B. WORKERS' COMPENSATION -- See EMPLOYMENT -- that heading

XV. STATE GOVERNMENT, GENERALLY

Open Meetings/Public Records (William R. Gilkeson and Walker Reagan -- 733-2578)

At the end of the 1993 Session, a conference committee still had pending before it the House and Senate versions of House Bill 120 (Rep. G. Miller). The bill would open up more of the decision-making process of state and local governmental bodies and boards to the public and would restrict the use of closed sessions to a narrow list included in the bill. Most of the minor differences between the House and Senate versions have been resolved with the remaining major difference being over how much of government personnel matters will have to be discussed in open meeting. The bill is being strongly supported by the North Carolina Press Association.

Also possibly eligible for consideration in the Short Session is House Bill 121 (Rep. G. Miller), which would change the public records law so as to make more specific the rights of persons requesting access to public records, particularly computer records. The chief Senate sponsor of companion bills to those listed above was Senator Cooper.

XVI. TAXATION (Cindy Avrette -- 733-2578; Sabra Faires -- 733-4910; Martha H. Harris -- 733-6660)

A. REVENUE LAWS

The LRC Committee on Revenue Laws will recommend that the General Assembly consider the following legislation:

1. Update the Internal Revenue Code reference upon which several state taxes, including corporate and individual income taxes, are based. This change will, in effect, amend North Carolina tax law to conform with the federal tax law provision providing reduced taxes on long-term capital gains from investments in qualified entrepreneurial firms. This amendment is one of the recommendations contained in the Comprehensive Strategic Economic Development Plan proposed by the North Carolina Economic Development Board.
2. Delete an unintended conflict between the law allowing loss carrybacks and the statute of limitations. This topic generated a lot of discussion and constituent letters during the past year.
3. Resolve a conflict in the dealer license plate law concerning the use of dealer license plates on vehicles used by a dealer in a business that is separate from the business of selling motor vehicles.

B. INTANGIBLES TAX

In June of 1993, the NC Court of Appeals held unconstitutional that part of the State intangibles tax that grants an exemption for corporate stock in proportion to how much of the corporation's income is attributable to North Carolina for income tax purposes. The Supreme Court heard oral arguments in this case on February 2, 1994, but it has not yet issued an opinion. The State contends the exemption is constitutional and the plaintiffs contend the entire intangibles tax on stocks is unconstitutional. There will likely be more than one bill introduced either repealing or reforming the intangibles tax law. SB 1245, introduced by Senator Dennis Winner in the 1993 session, is in the House Finance Committee. That bill would exempt from intangibles tax corporations whose stock is not publicly traded.

If the State loses the lawsuit, then the cost to the State could be \$127 million or up to \$300 million when interest is added.

C. TAXATION OF FUEL

1. SB 1088, introduced by Senator Lee, would change the diesel fuel payment method. Under this bill, only part of the tax on diesel fuel would be paid at the pump; the remainder of the tax would be changed to a surtax to be paid by motor carriers on their periodic reports and to an annual \$50 registration tax to be paid by vehicle owners.
2. Several neighboring states have adopted fuel tax "destination state" legislation. This legislation required the shipping document given to the person who operates a transport truck into which motor fuel is loaded at the terminal rack to contain the destination state of the motor fuel. The purpose of this legislation would be to improve the administration of and the compliance with the State's motor fuel tax laws. This issue will likely be considered in the Short Session.
3. The federal government is beginning to tax motor fuel at the terminal rack. The issue of changing the State's taxation of motor fuel to mirror the federal approach may be an issue.

D. PROPERTY TAXES

1. The NC Supreme Court recently upheld the use of outside auditors on a contingent fee basis for the collection of property taxes. There may be legislation on this topic.
2. There may be discussion about exempting property tax on construction work in progress.

E. TAX INITIATIVES FOR ECONOMIC DEVELOPMENT

1. **State Investment in Venture Capital**
House Bill 1467, introduced by Representative George Miller, is in the House Finance Committee for concurrence in a Senate amendment that would increase the amount of money in the State pension funds the State Treasurer could invest in venture capital from \$30 million to \$60 million.
2. **Audit of Business Taxes and Tax Credits**
Directing the Department of Commerce, in conjunction with the Department of Revenue, to conduct an audit of business taxes and tax credits in North Carolina -- recommendation of the North Carolina Economic Development Board. This audit might include the current property tax system of business personal property; the latest newsletter from the Tax Section of the Bar contains an indictment of this system.
3. **Expand Targeted Tax Credits**
Target tax credits and other incentive programs to low wealth regions and broaden eligibility to include non-manufacturing firms within North Carolina's "traded sector" -- recommendation of the North Carolina Economic Development Board.
4. **Jobs Tax Credit**
Modify the Jobs Tax Credit for Distressed Counties by creating a tiered system of eligibility. The tiered system should cover 75 counties (current credit available in 50 counties).
5. **Modify Wage Base Standard**
Establish a uniform wage standard applicable to all economic development programs and incentives -- recommendation of the North Carolina Economic Development Board.

XVII. TRANSPORTATION (Giles Perry -- 733-2578; Richard Bostic -- 733-4910)

A. TRANSFER STATE PORTS AUTHORITY TO THE DEPARTMENT OF TRANSPORTATION

The Economic Development Board will recommend, based on its study requested by the General Assembly, that the State Ports Authority be transferred from the Department of Commerce to the Department of Transportation. The recommendation is based on the view that the ports serve as part of the global transportation program

and that there should be greater coordination of the ports with land transportation and railway systems. The report will recommend DOT coordinate the State ports' capital program and strengthen the existing capacity to assess the land transportation needs of the State ports.

B. REST AREA SECURITY

DMV has requested \$3.3 million next fiscal year for additional cars, equipment, overtime pay, etc. related to rest area security.

C. TRANSFER OF RAIL SAFETY INSPECTORS

\$190,000 was appropriated for the transfer of rail inspectors from the Utilities Commission to DOT, but the legislation did not pass the House. The transfer is in limbo till the Short Session. If the bill is defeated, then these funds can be reappropriated.

D. ELIMINATION OF DMV POSITIONS

Staff will seek the elimination of 61 positions at DMV due to the completion of a new Driver License computer system. The annual savings is \$1.3 million but this may be less in the first year due to the delay in completion date.

E. CAPITAL IMPROVEMENT PLAN FUNDING NEEDS

The Division of Highways ten year capital improvement plan has \$12.3 million in projected needs for next fiscal year. The DMV has a separate list.

F. RESERVE FOR LONDON AIR ROUTE

The \$5 million reserve to lure a London air route to the state is unspent and should revert on June 30. The funds will be added to the beginning credit balance.

G. TRANSFER OF FUNDS FROM HIGHWAY FUND TO HIGHWAY TRUST FUND

In 1994-95, \$9.6 million will transfer from the Highway Fund to the Highway Trust Fund. This is the money that has been used to repay Highway Bond debt, but will now transfer to the Trust Fund due to the passage of HB 399 in 1989.

H. HIGHWAY PATROL FUNDING

In the recent Crime Session, the Highway Patrol asked for 450 troopers (\$27.7 million), pay raises for non-trooper personnel (\$1.4 million), and several new buildings (\$19.6 million). Part of this request will be seen again in May.

I. HIGHWAY MAINTENANCE FUNDING

DOT is revising its maintenance needs report for the Short Session. Preliminary numbers show that DOT has a \$295.6 million backlog in routine maintenance needs and an \$18 million backlog in resurfacing needs. The DOT also needs to increase the annual maintenance budget by \$47.7 million and increase annual resurfacing by \$36.6 million.

J. HIGHWAY FUND REVENUES

The Highway Fund budget is balanced in 1994-95, with little new revenue expected next year. To accommodate an employee pay raise or a new initiative, the budget will have to be cut to create availability. Each 1% pay raise costs the Highway Fund \$3.56 million.

K. REVISION OF MOTOR VEHICLE EMISSION INSPECTION PROGRAM

DMV may request additional personnel and a fee increase to expand the emissions inspection program due to a Federal Clean Air Act mandate effective Jan. 1, 1994. The requirements include penalties against vehicle owners and inspection stations as well as the denial of vehicle registration for failure to comply.

XVIII. UTILITIES (Steve Rose -- 733-2578)

A. UTILITY REPAIR VEHICLE REGISTRATION

The Joint Legislative Utility Review Committee has made a recommendation that the 1994 Session consider a bill allowing utility repair vehicles from other states to come into North Carolina without being registered in this state and paying the necessary tax for registration, provided the purpose of the trip is to effect an emergency repair. Presently, the only way this can be done is if the Governor declares a formal state of emergency. This is particularly a problem in areas of North Carolina bordering other states where a utility serving both states might have a vehicle closer in another state

but cannot use that vehicle and must wait for a North Carolina registered vehicle to arrive at the scene.

B. SMALL PRIVATE SEWER SYSTEM REGULATION

Another topic under discussion in the Utility Review Committee has to do with the regulation of small private sewer systems serving individual subdivisions. This was brought to the attention of the Committee through the failure of North State Utilities which operated 10 of these systems, mostly in Wake County, with some in Orange, Durham, and Mecklenburg counties. Several issues were raised by this situation. Since the utility is essentially bankrupt and very expensive repairs are necessary to allow these systems to function in a safe and sanitary manner, there is a question as to whether the State should contribute to the repairs because of the allegation that the state failed in its licensing and inspection responsibilities. The other aspect of this problem is whether or not changes are necessary in State laws dealing with the licensing and inspection of small private sewer systems in order to prevent such problems from occurring in the future. This item is on the Committee's agenda of April 22, 1994, and recommendations could come out of that meeting.

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